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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,795	07/10/2001	Robert M. Ketterer	4670-2/US	9325

7590 03/24/2005

Douglas Wm. Massinger, Esquire
MASSINGER LAW OFFICE
113 North Olive Street
Media, PA 19063

EXAMINER

VIG, NARESH

ART UNIT	PAPER NUMBER
----------	--------------

3629

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/901,795

Applicant(s)

KETTERER, ROBERT M.

Examiner

Naresh Vig

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

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GROUP 3600

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application); the disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The provisional application 60/217097 filed 10 July 2000 does not support the limitation "verifying the sale of said listed properties with federal, state and/or local registers".

The priority date for this application will be 10 July 2001, filing date of the application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broerman US Patent 6,594,633 in view of Weatherly et al. US Patent 6,049,784 hereinafter known as Weatherly.

Regarding claim 1, Broerman teaches system and method to facilitate a real estate transaction between a buyer and a seller by electronically communicating between the parties and third parties such as a real estate facilitating entities (e.g., lawyer, mortgage provider, title provider) over a network, such as or including the Internet [abstract]. Broerman teaches:

receiving on a host computer property listings from remote personal computers via the internet; said property listings including descriptive indicia, price, digital photographs and/or streaming video, all relating to each property for sale [Fig. 7 and disclosure associated with Fig. 7];

storing said property listings in a searchable database on said host computer (obvious because Broerman teaches allowing users to search for property [Fig. 8 and disclosure associated with Fig. 8];

allowing prospective buyers to search for and display on their remote personal computers any or all of said property listings via the internet [Fig. 8 and disclosure associated with Fig. 8];

Broerman does not teach receiving on said host computer from said remote personal computers information and authorizations necessary to procure credit histories of said prospective buyers. However, Broerman teaches providing access to third party

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service providers [abstract]. However, Weatherly teaches "Once a relationship is formed, a landlord (seller) with a prospective tenant (buyer), the tenant will also provide the financial institution with the required information to perform a credit check and other financial information as necessary, including employer and income information" [Weatherly col. 4, lines 21 – 33].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Broerman as taught by Weatherly to ensure that the potential buyer is eligible to complete the purchase of real estate.

Broerman in view of Weatherly teaches:

receiving on said host computer said credit histories of said prospective buyers from remote computers of outside credit information providers via the internet [Weatherly col. 4, lines 34 – 65];

transmitting said credit history from said host computer to said remote personal computers of said sellers via the internet or alternatively allowing said remote personal computers to access said information on said host computer (obvious that when an requesting entity requests credit history on another entity, the credit bureau transmits the credit history of that entity to the requesting entity, for example, mortgage lenders downloading credit history of a loan applicant);

permitting said prospective buyers and said sellers to schedule showing dates (schedule associated events (e.g., showings)) [abstract] and times on said host computer via the internet (For example, a text or graphical calendar may be presented for times available and/or not available to the other party) [col. 12, lines 54 – 56];

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permitting said prospective buyers and said sellers to negotiate the terms of sale of the listed properties through said host computer via the internet (to negotiate via an electronic purchase contract) [abstract];

receiving on said host computer from said remote personal computer of said prospective buyers and said sellers data for the completion of all required real estate sales documentation [Fig. 9 and disclosure associated with Fig. 9];

preparing and transmitting to said prospective buyers and said sellers all required real estate sales documentation for signature (design choice to elect whether to user electronic signature, or, hand signed signature) [col. 6, lines 34 – 40, Fig. 6 and disclosure associated with Fig. 6];

verifying the sale of said listed properties with federal, state and/or local registries (design choice to decide where to acquire the sale information, for example a user can get information for county land records, form local MLS etc., electronic exchange of desired information is known to one of ordinary skill in the art, for example use of EDI, MLS like MRIS in Washington DC metropolitan area extracts land records for assisting real estate agents add listing to MRIS database) [sale verification, Fig. 1 and disclosure associated with Fig. 1].

providing for payment of host computer usage fees via the internet from buyers and sellers who have consummated a sale (business choice to elect whether to charge fee for rendering services, or, give it for free to the users) [Fig. 11 and disclosure associated with Fig. 11].

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Regarding claim 2, Broerman teaches system and method for a remote self-service real estate brokerage system on the internet. Broerman teaches system and method to facilitate a real estate transaction between a buyer and a seller by electronically communicating between the parties and third parties such as a real estate facilitating entities (e.g., lawyer, mortgage provider, title provider) over a network, such as or including the Internet [abstract]. Broerman teaches:

means for allowing sellers of real estate to provide property listing information on a central host computer via the internet [Fig. 7 and disclosure associated with Fig. 7].

means for allowing prospective buyers of real estate to access and retrieve said property listing information via the internet [Fig. 8 and disclosure associated with Fig. 8].

Broerman does not teach means for allowing said central host computer to obtain credit history data pertaining to said prospective buyers from remote credit information servers and communicating said credit history data to said sellers all via the internet; However, Broerman teaches providing access to third party service providers over the internet [abstract]. However, Weatherly teaches "Once a relationship is formed, a landlord (seller) with a prospective tenant (buyer), the tenant will also provide the financial institution with the required information to perform a credit check and other financial information as necessary, including employer and income information" [Weatherly col. 4, lines 21 – 33].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Broerman as taught by Weatherly to to automate

the credit history checking, and ensuring that the potential buyer is eligible to complete the purchase of real estate.

Broerman in view of Weatherly teaches:

means for permitting said sellers and said prospective buyers to schedule showings (schedule associated events (e.g., showings)) [abstract] of said real estate and to negotiate the terms of sale of said real estate (to negotiate via an electronic purchase contract) [abstract] all via the internet (Broerman provides access to users over internet);

(schedule associated events (e.g., showings)) [abstract] and times on said host computer via the internet (For example, a text or graphical calendar may be presented for times available and/or not available to the other party) [col. 12, lines

means for providing said sellers and said prospective buyers via the internet all documentation necessary to consummate the sale of said real estate [Fig. 9 and disclosure associated with Fig. 9];

means for verifying with federal, state and/or local registries via the internet the sale of said real estate (design choice to decide where to acquire the sale information, for example a user can get information for county land records, form local MLS etc., electronic exchange of desired information is known to one of ordinary skill in the art, for example use of EDI, MLS like MRIS in Washington DC metropolitan area extracts land records for assisting real estate agents add listing to MRIS database) [sale verification, Fig. 1 and disclosure associated with Fig. 1].

means for paying the operator of said central host computer via the internet for use of the subject self-service real estate brokerage system (business choice to elect whether to charge fee for rendering services, or, give it for free to the users) [Fig. 11 and disclosure associated with Fig. 11].

Regarding claim 3, as responded to earlier in response to claims 1 and 2, Broerman teaches a remote system and method for self-service real estate brokerage system on the internet. Broerman teaches system and method to facilitate a real estate transaction between a buyer and a seller by electronically communicating between the parties and third parties such as a real estate facilitating entities (e.g., lawyer, mortgage provider, title provider) over a network, such as or including the Internet [abstract].

Broerman teaches:

a host system [Fig. 1 and disclosure associated with Fig. 1];

a plurality of remote data terminals and processors [Fig. 1 and disclosure associated with Fig. 1];

processing means within said host system including a central processing unit and associated memory means [Fig. 2 and disclosure associated with Fig. 2]

data transmission means providing a signal path for data exchange between said host system and said plurality of data terminals and processors [Fig. 1 – 2 and disclosure associated with Fig. 1 – 2]

communications means associated with said host system, said communications means being controlled by said processing means to provide and receive data

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transmissions between said host system and said remote terminals [Fig. 1 – 2 and disclosure associated with Fig. 1 – 2]

data storage means within said host system, said data storage means maintaining a plurality of data records and files of different types including property records, seller records, buyer records, prospective sales records and sales records [Fig. 1 – 2 and disclosure associated with Fig. 1 – 2]

means for allowing said central host computer to obtain credit history data pertaining to said prospective buyers from remote credit information servers and communicating said credit history data to said sellers all via the internet [Fig. 1 – 2 and disclosure associated with Fig. 1 – 2];

means for permitting said sellers and said prospective buyers to schedule showings of said real estate and to negotiate the terms of sale of said real estate all via the internet [Fig. 1 – 2, 9 and disclosure associated with Fig. 1 – 2, 9]

means for providing said sellers and said prospective buyers via the internet all documentation necessary to consummate the sale of said real estate [Fig. 1 – 2, 6 and disclosure associated with Fig. 1 – 2, 6];

means for verifying with federal, state and/or local registries via the internet the sale of said real estate [Fig. 1 – 2 and disclosure associated with Fig. 1 – 2]

means for paying the operator of said central host computer via the internet for use of the subject self-service real estate brokerage system [Fig. 1 – 2, 11 and disclosure associated with Fig. 1 – 2, 11].

Conclusion

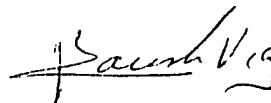
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 CFR '1.111 (c) to consider the references fully when responding to this office action.

1. Information on FSBO.com

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is 703.305.3372. The examiner can normally be reached on M-F 7:30 - 5:00 (Alt Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703.308.2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Naresh Vig
Patent Examiner
March 20, 2005

Notice of References Cited	Application/Control No. 09/901,795	Applicant(s)/Patent Under Reexamination KETTERER, ROBERT M.	
	Examiner Naresh Vig	Art Unit 3629	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,594,633	07-2003	Broerman, Vincent S.	705/1
	B	US-6,049,784	04-2000	Weatherly et al.	705/38
	C	US-			
	D	US-			
	E	US-			
	F	US-			
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	K	US-			
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	M	US-			

FOREIGN PATENT DOCUMENTS

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	S					
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NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	Information on FSBO.com, 1996 - 2000
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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		Jun 12, 1998 *	Feb 19, 1999	Apr 08, 2000	Apr 06, 2001	
		Nov 11, 1998 *	Apr 21, 1999	May 10, 2000	May 16, 2001	
		Nov 11, 1998 *	Apr 29, 1999	May 11, 2000	Jun 07, 2001	
		Dec 03, 1998	May 07, 1999 *	May 20, 2000	Aug 02, 2001 *	
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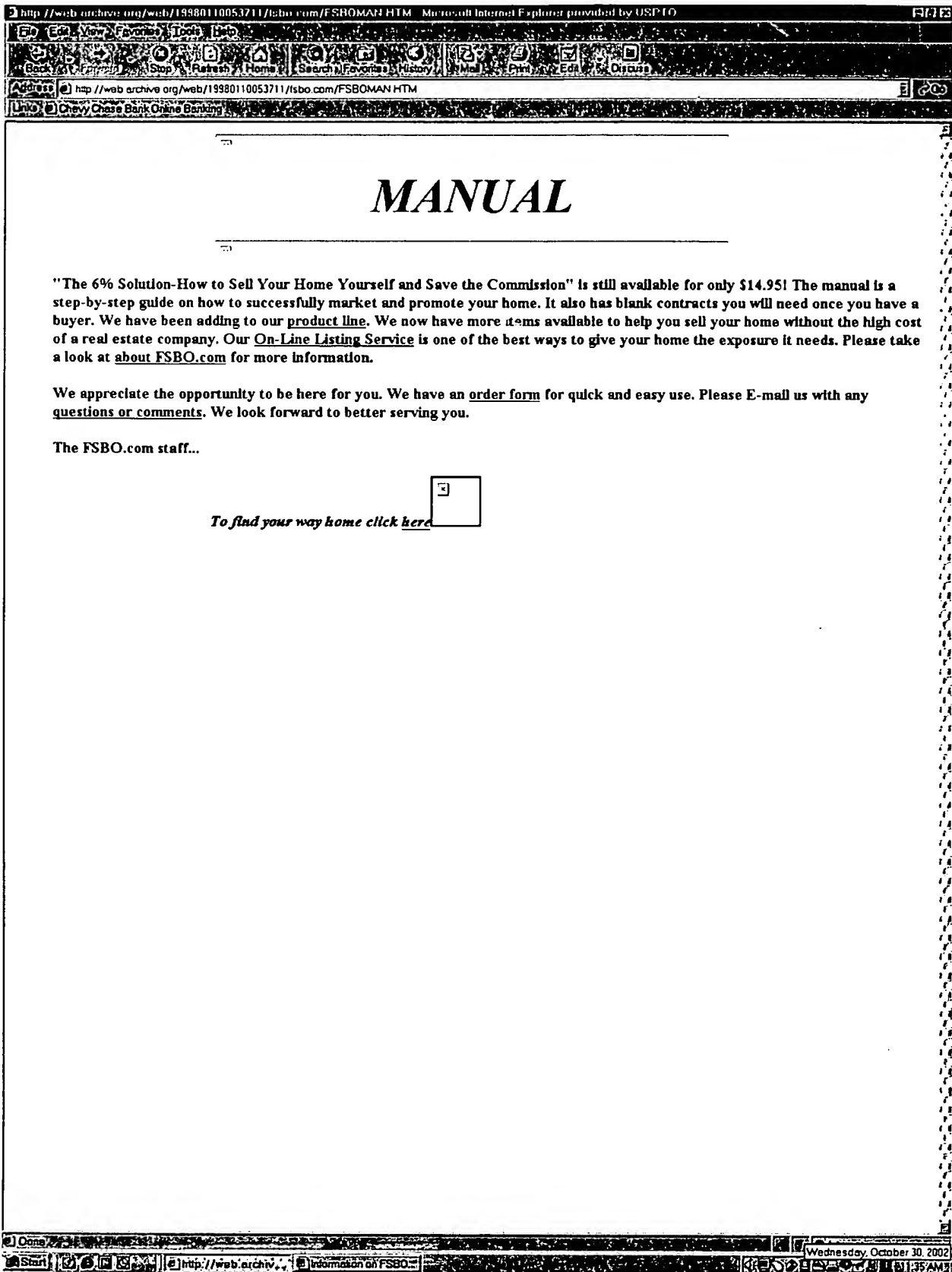
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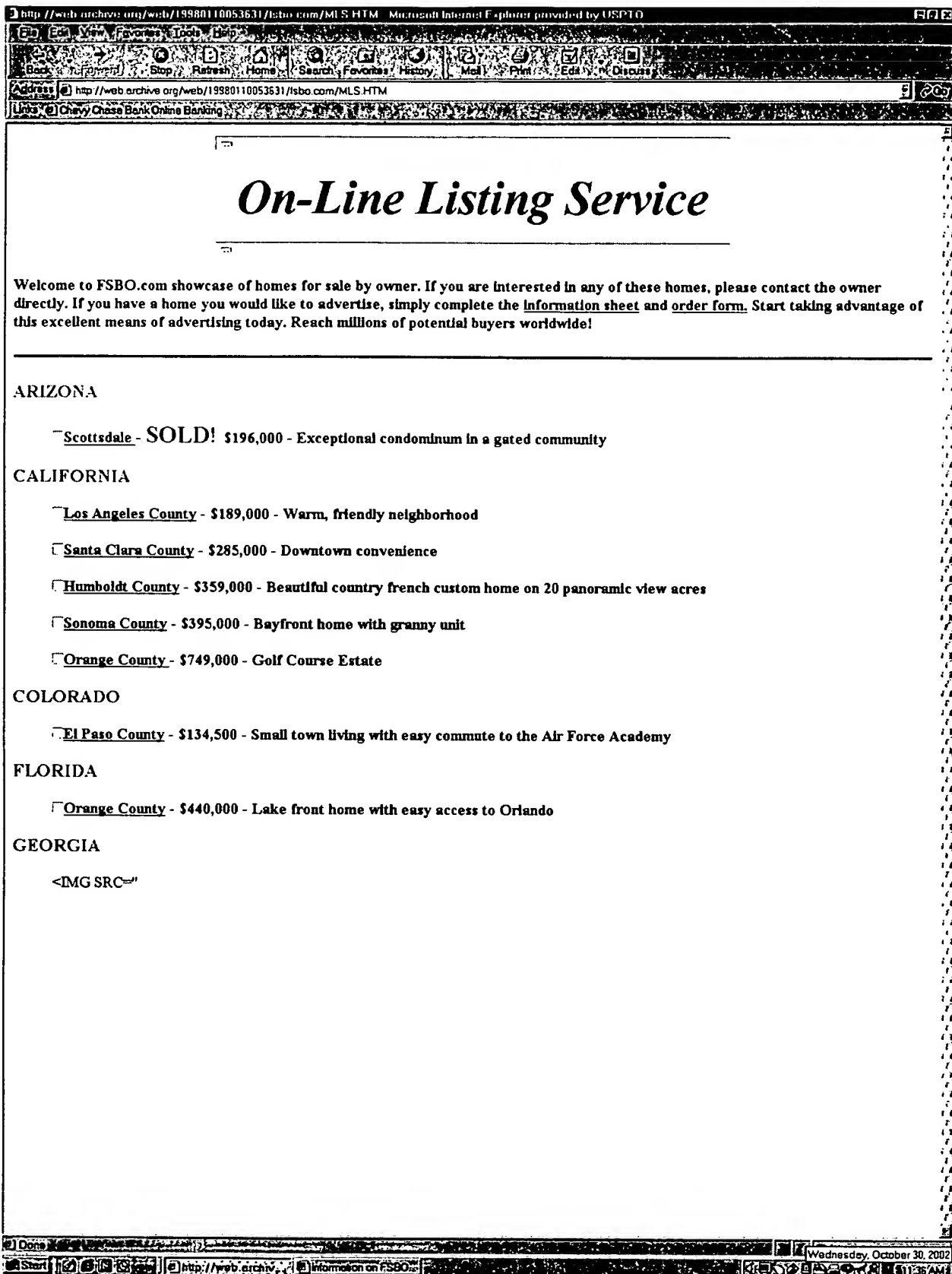
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- 2 - \$15 Flyer - contains information regarding your home and property. We provide an original so that you can reproduce these on an as needed basis for your open houses and brochure box. (Please complete information sheet if you would like to order this item.)
- 3 - \$10 Additional Blank Contracts (set includes a six-page purchase contract, addendum, 4-page sellers disclosure, and counter offer.) All of these blank forms were written by a real estate attorney.
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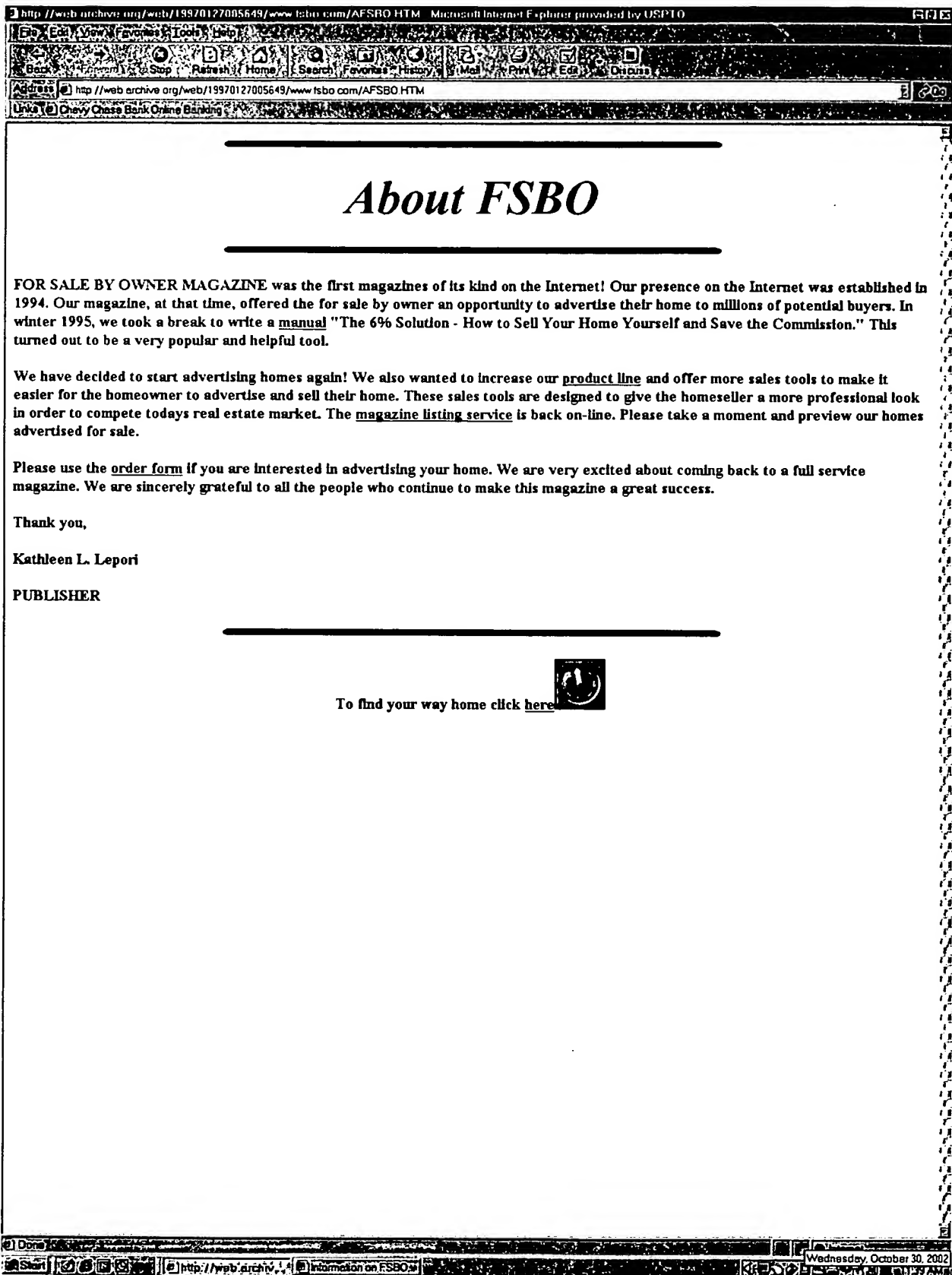
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- 1 - \$14.95 "The 6% Solution-How to Sell Your Home Yourself and Save the Commission" is a step-by-step guide on how to sell your own home without the high cost of using a real estate company. This valuable manual also includes a six-page purchase contract, an addendum, 4-page sellers disclosure, and a counter offer. All of these blank forms were written by a real estate attorney.
- 2 - \$25 Brochure Holder - a plastic all-weather container designed to hold and protect information flyers. Provides easy outside accessibility for interested buyers.
- 3 - \$15 Flyer - contains information regarding your home and property. We provide an original so that you can reproduce these on an as needed basis for your open houses and brochure holder. (Please complete information sheet if you would like to order this item.)
- 4 - \$35 Yard Sign - this is a light-weight durable sign that reads "FOR SALE BY OWNER" with your telephone number on it! It comes with a ground stake and easy mounting instructions.
- 5 - \$35 Open House Sign - a sandwich-board-style sign that reads "OPEN HOUSE" and has an arrow directing buyers to your home.
- 6 - \$10 Additional Blank Contracts (set includes a six-page purchase contract, addendum, 4-page sellers disclosure, and counter offer.) All of these blank forms were written by a real estate attorney.
- 7 - \$30 Magazine Listing Service - advertise your property on our site. We will list your home in an index by state and county and then by price. We will include a link to a page describing your home, acreage, lot, business opportunity or income property, etc. The ad will run for 3 months and is text only. There will be an additional charge of \$15 dollars for each photograph (limit 4 photos). (Please complete the information sheet if you would like to order this item.)

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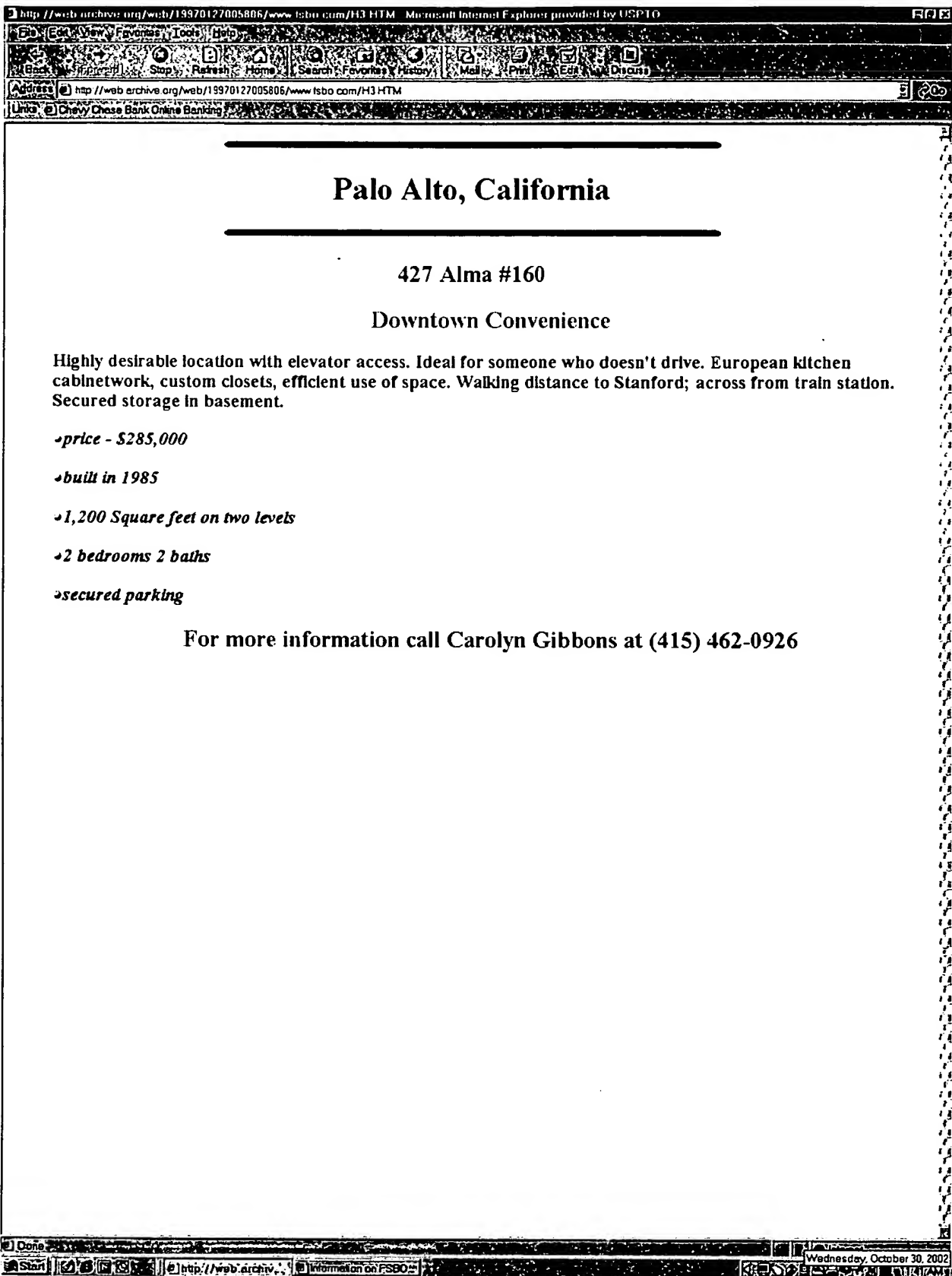
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Highly desirable location with elevator access. Ideal for someone who doesn't drive. European kitchen cablnetwork, custom closets, efficient use of space. Walking distance to Stanford; across from train station. Secured storage in basement.

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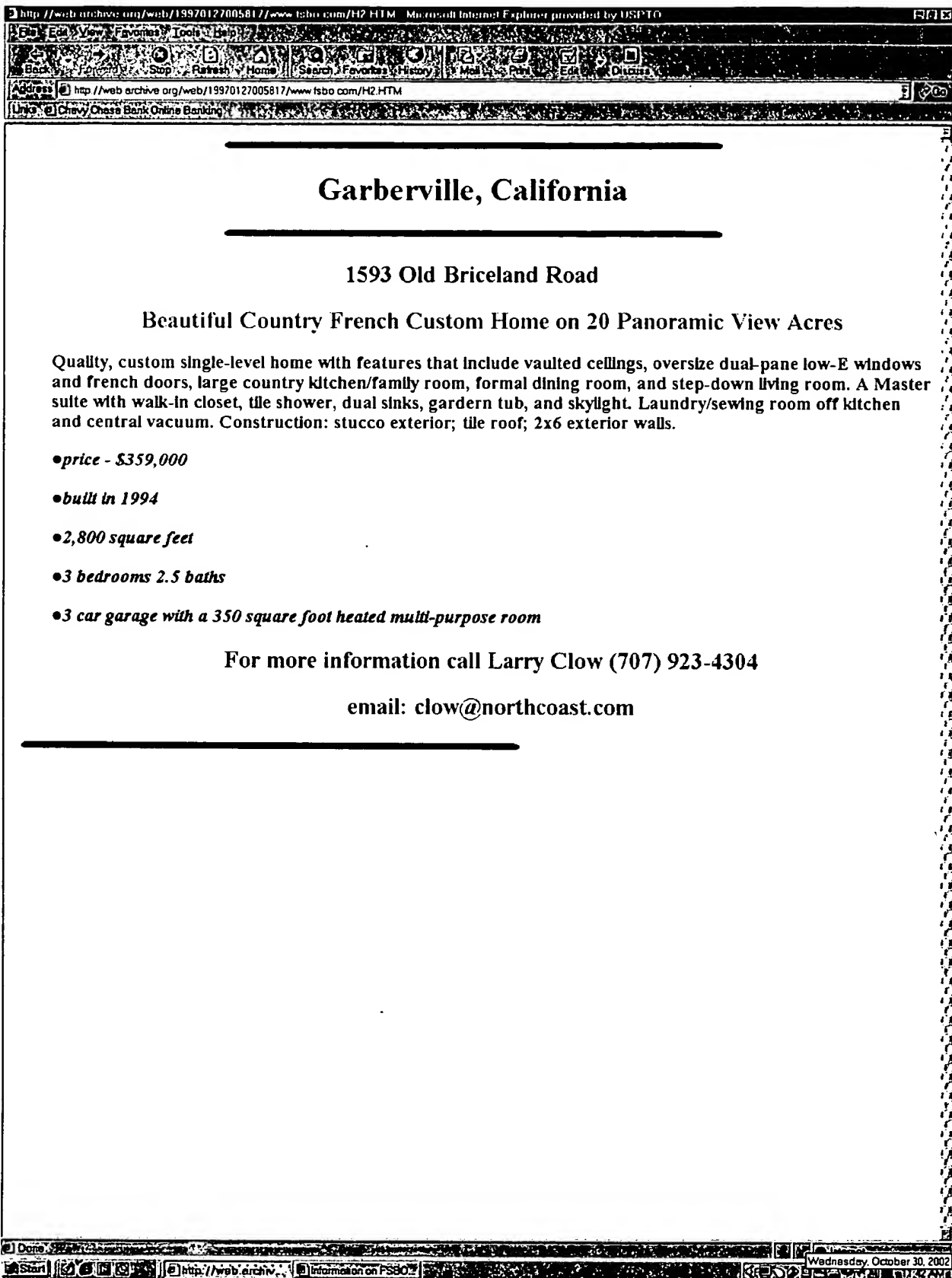
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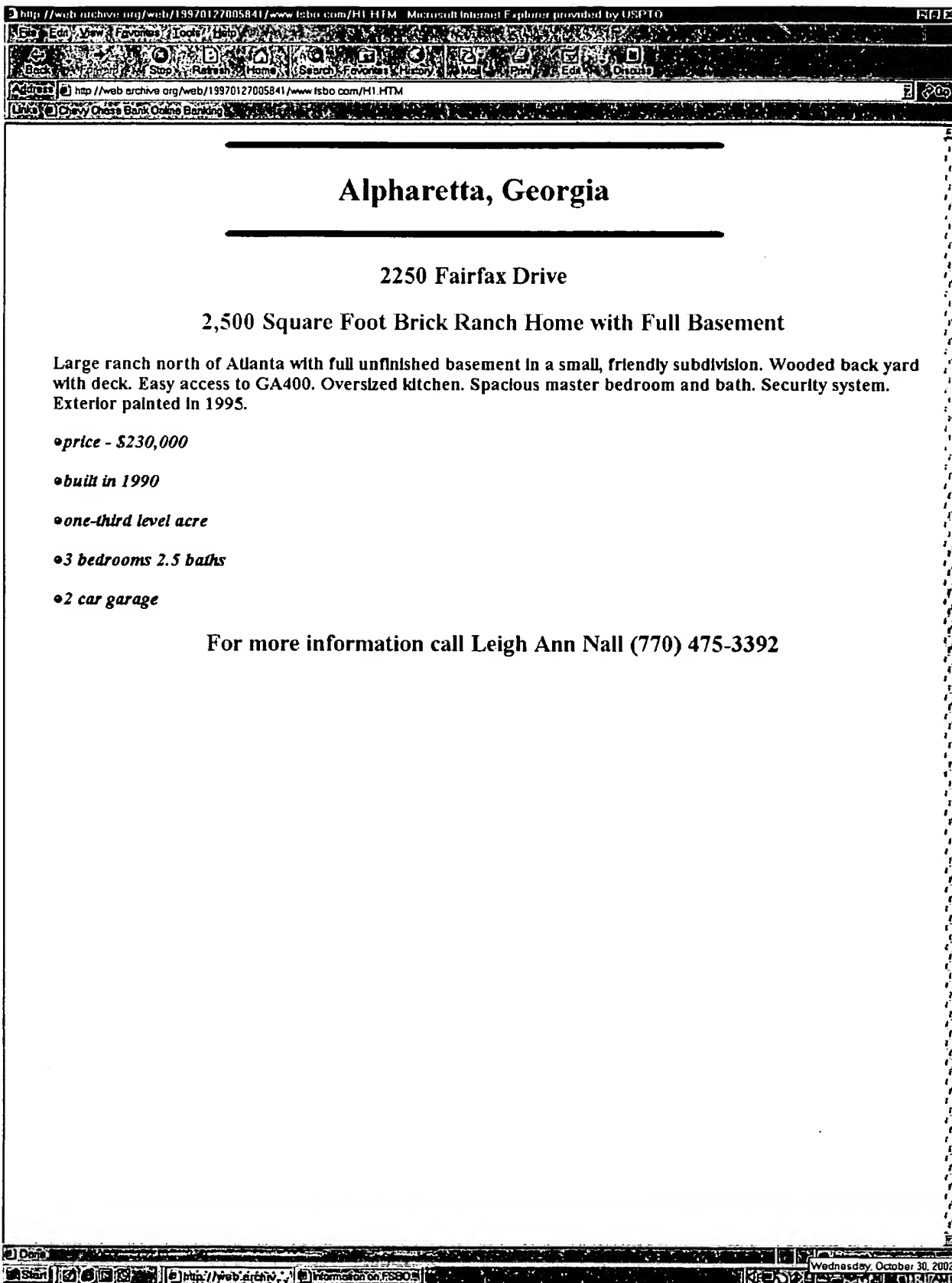
•1,200 Square feet on two levels

•2 bedrooms 2 baths

•secured parking

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North Billerica, Massachusetts

4 Pleasant Street

Picture Perfect Cape: 7 rooms, 3 bedrooms, beautiful woodwork

Corner lot located on a quiet side street across from the Concord River. watch the ducks and boats go by, yet the basement stays dry!

- *Price - \$144,900*
- *Nice big eat-in kitchen is 16' with beautiful cabinets, self-clean, double oven electric stove*
- *Formal dining room addition off kitchen gets plenty of sun, keeps cool with ceiling fan*
- *Entertainment sized family room with built-in custom bar and wall to wall carpeting*
- *10,850 sq. ft. level lot with plenty of paved parking and nice brick walkway*
- *Within 4 miles of Rt. 3 and Rt. 495, 25 min. to Boston, 15 min. to N.H.*
- *7 rooms, 3 bedrooms, 1 full bath, large family room, lots of storage*
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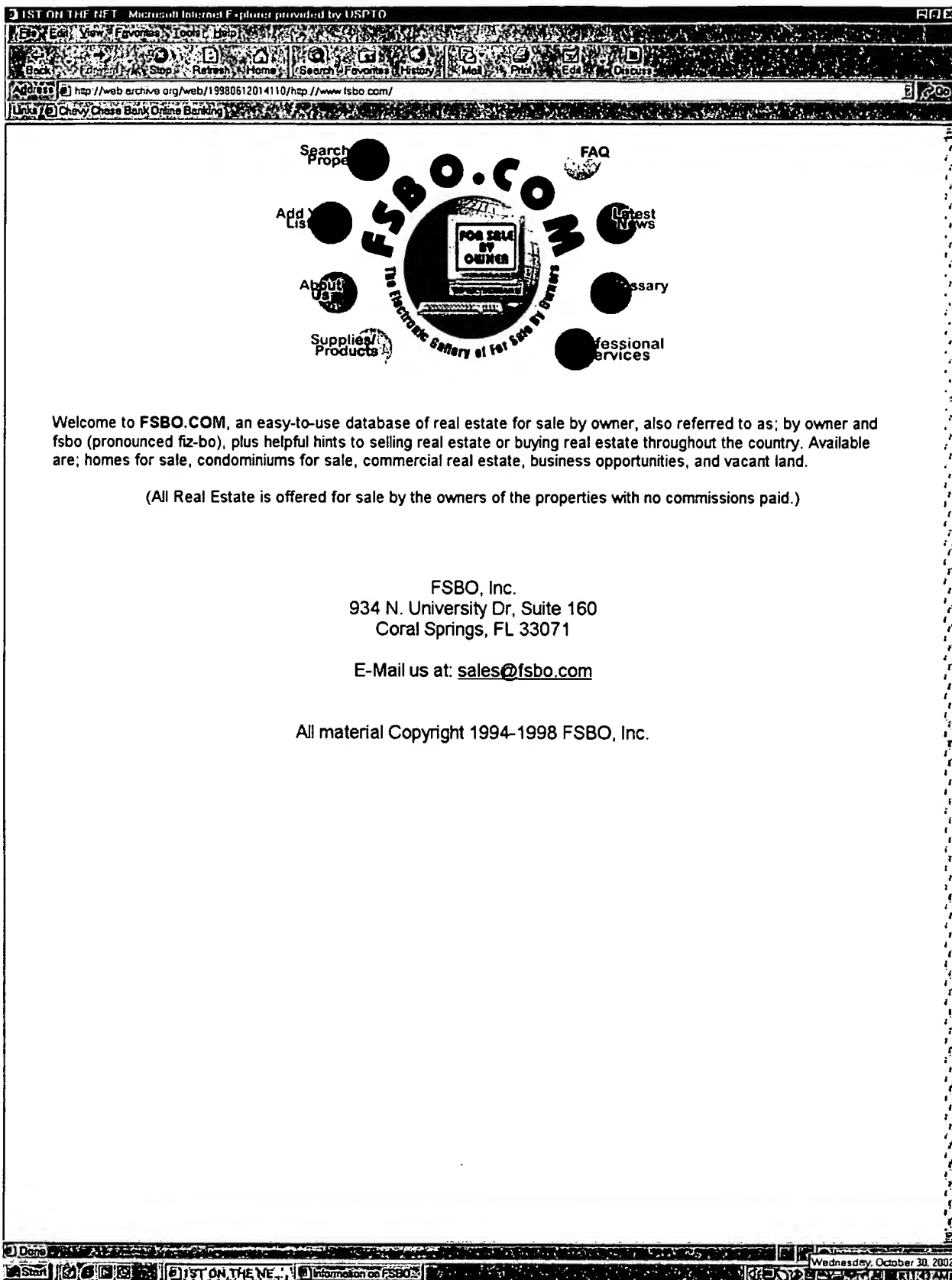
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-- Includes:

- 1 On Line Listing Service ~ Please complete the add your listing form.
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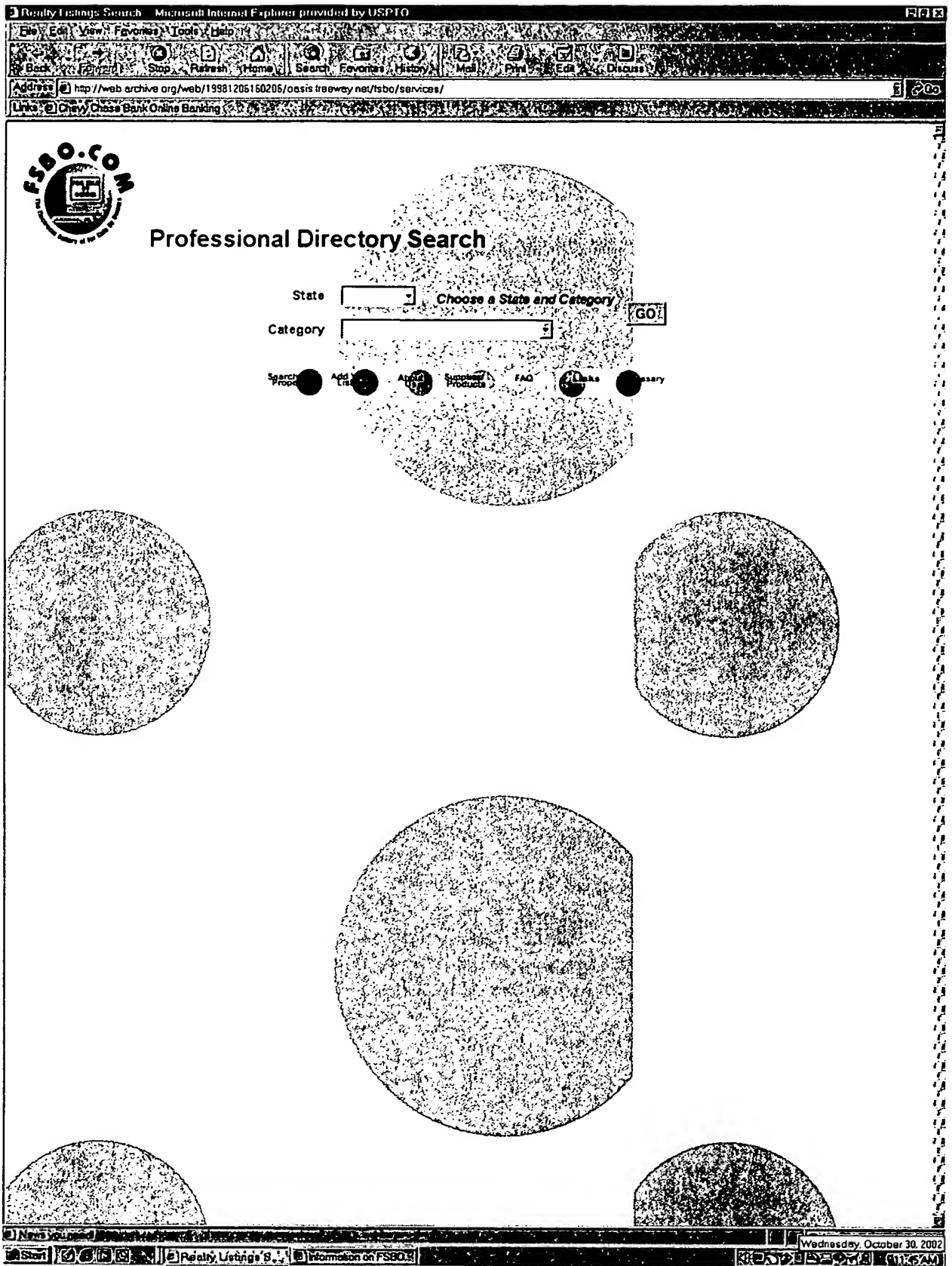
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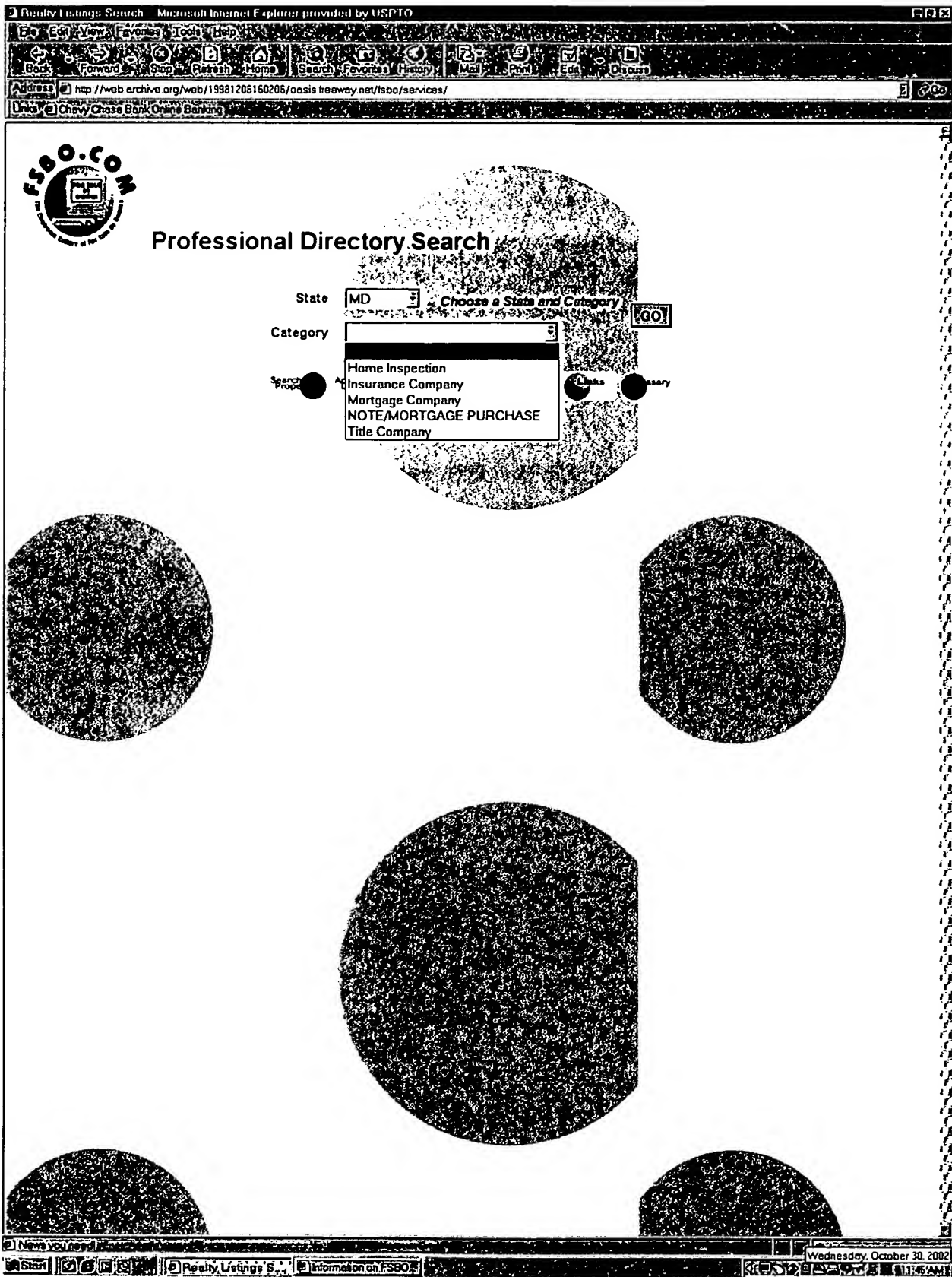
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- 1. Why go FSBO?**

Because you can and because you can save thousands of dollars in commissions. Nobody knows your property like you, nobody can explain the features and benefits like you. All you need is prospective buyers, and they come through exposure.
- 2. How do I expose my property to the most prospects?**

Well, with photos on the Internet to start, with over 50,000,000 people now on the Web. Local exposure with signage in your yard, local newspapers, etc. Always advertise the Website so that prospect can see the photo's of your property.
- 3. How do I know what to do when a prospect calls?**

First, find out where they found out about your property for sale. If they don't buy, at least you will know where to keep exposing your property. Next, answer all of their questions honestly and with sincerity, and while they are asking you questions, you need to ask them questions back. You need to get their thoughts and opinions of your property so that later you can guide them through the thought process of believing they could live in your property. For example: if they ask "how big is your living room," you need to ask them back "how many pieces of living room furniture do you own?" With the answer you can then help them visualize their furniture in your living room.
- 4. When should we discuss price?**

Right up front. If you plan to negotiate on a different price once the prospect is interested, you need to get the following information out of the way, 1. possession 2. financing 3. personal property that may stay 4. any contingencies, such as; building inspections 5. does the buyer need to sell their property first 6. all other details that pertain to your property.
- 5. What should I do if real estate agents start calling me?**

Start by finding out which office they are with and the office managers name. If you feel they are harassing you or making derogatory statements, you need to call the manager and complain. If it persists, all real estate agents are licensed through your State Division of Real Estate, let them know if they call again you will call the state regulators.
- 6. Should I have an attorney?**

It is advisable, but not necessary. You are saving thousands of dollars, so an attorney should only charge in the hundreds. If you plan on using an attorney, contact them prior to putting your property up for sale and get in writing what they charge and the services they provide.
- 7. Do I really have a chance to find a buyer on the Internet?**

Yes, and your chances are increasing each year. Fact 1, in 1997, there was over 3,000,000 people who invested in the stock market for a commission of \$20 or less using the Internet. This number is expected to grow to 12,000,000 in the next three years. Fact 2, over 50% of all stock mutual fund investors bought no load mutual funds to save commissions. Our feeling is that these people know how to do research, use the Internet, find the best values, and make the decision to buy all on their own and save big time commission dollars. When these people are ready to buy a house they will go through the same process.
- 8. I am not a very good at salesmanship?**

That's OK, in fact, most buyers dislike someone who is real slick and fast talking trying to sell them something. Just be yourself, answer all questions with sincerity. Don't dwell on the negatives and always accent the positive. While a home is usually the largest purchase a person ever makes, the automobile is the second largest and look what is happening in that industry. Large lots and one fixed price with no haggling. Finally, you can buy a car and get the best price without a salesman and haggling over the price. Each year more people buy this way, and they will soon buy their next home this way.
- 9. What about the Security issue of a stranger coming into my house?**

Excellent question, just like the prospect knows your name, address, and telephone number, you need to find out this before you even discuss an appointment to see your property. If they refuse, then trust me when I tell you, they are not a serious buyer and they are just wasting your time. If they are a sincere prospect they will gladly volunteer the

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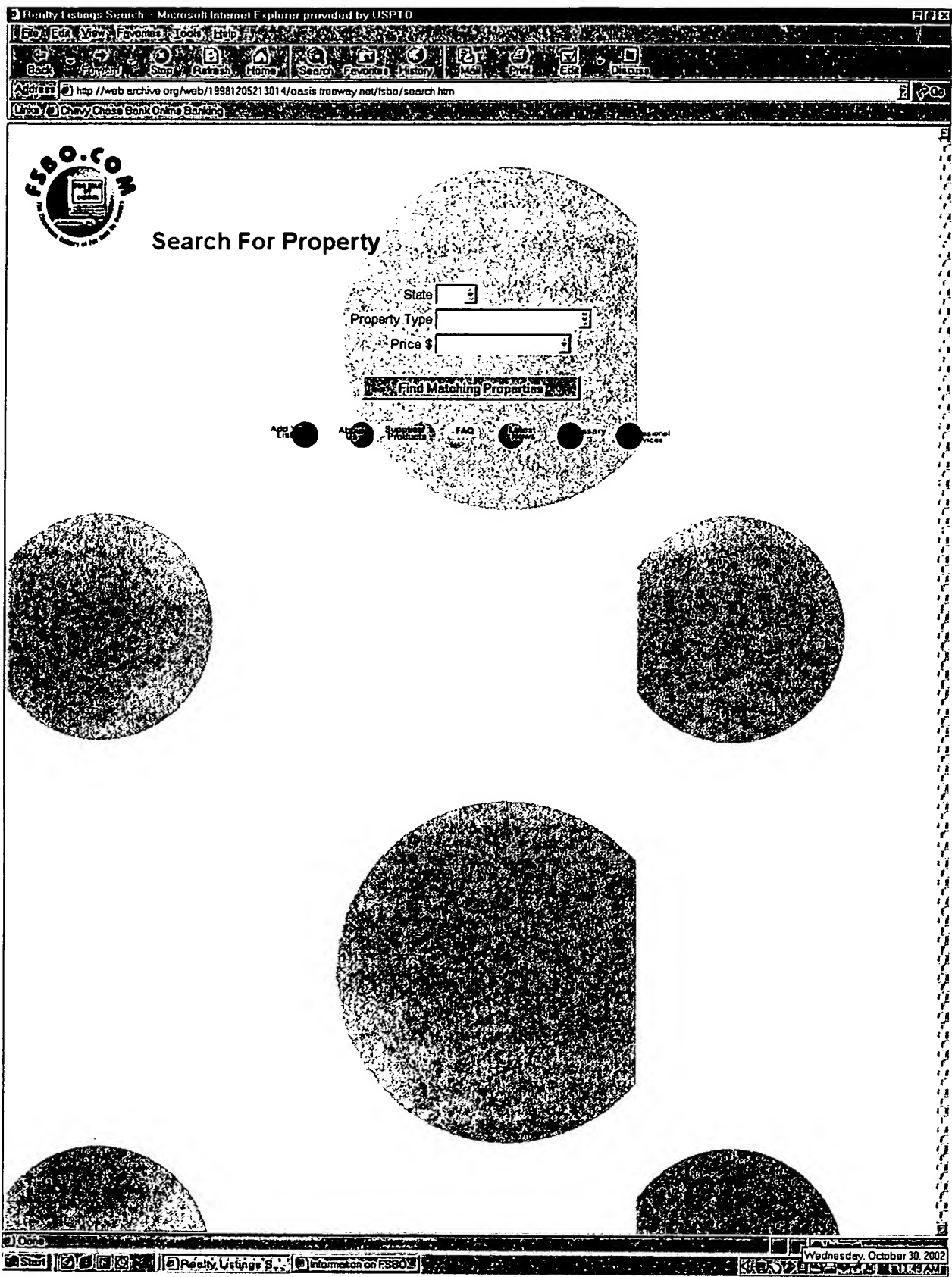
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Property Type

Property Location

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City

Zipcode

Township

Subdivision/Association

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Street Name

Street Number

Twn/Rng/Sec

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Site Descriptors

Lot Size _____

Acreage _____

Body of Water _____

Type of Waterfront _____

Waterfront Footage _____

Type of View _____

Terrain _____

Home Descriptors

Total Sq. Ft. _____

Number of Bedrooms _____

Number of Bathrooms _____

Furnished? ☒ Yes ☐ No

Garage _____

General

Price _____

Remarks / Description _____

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Waterfront Footage

Type of View

Terrain

Home Descriptors

Total Sq. Ft.

Number of Bedrooms

Number of Bathrooms

Furnished? ☐ Yes ☐ No

Garage

General

Price

Remarks / Description

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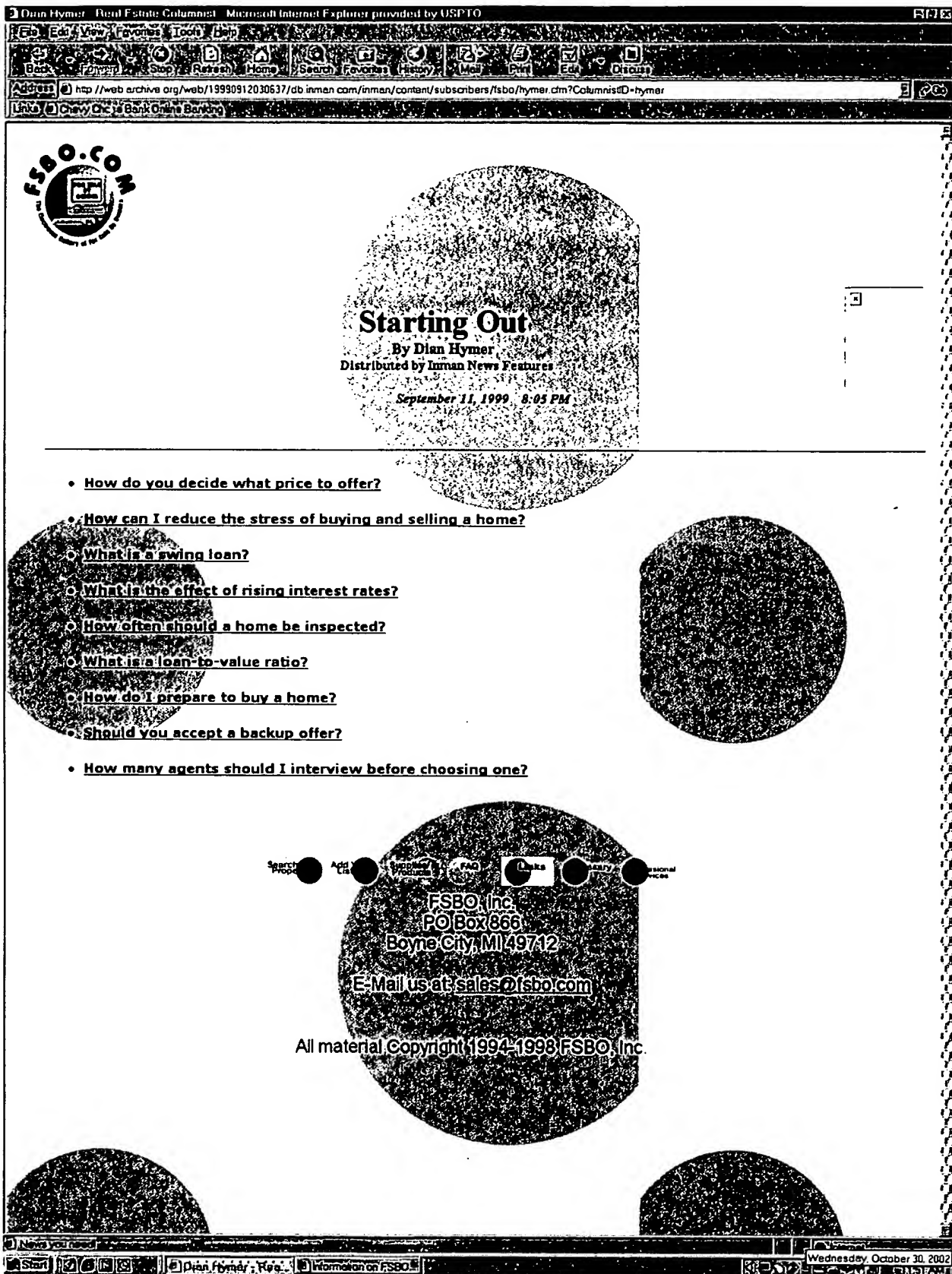
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How do you decide what price to offer?

By Dian Hymer

Years ago, when the real estate market was in the doldrums, buyers rarely made full price offers. Today, in areas where the market is active, offering full price might not be enough if several other buyers are bidding against you for the property.

It's important to have an understanding of the market conditions at work in the area where you want to buy. If your aim is to make an offer that will lead to the successful negotiation of a home purchase, if you offer too low a price, you could risk losing the property to another, better educated buyer who's knowledgeable about current market values. Or you could risk insulting the sellers with such a low price that you then have difficulty negotiating with them at all.

For example, one buyer decided to start with an initial offer price that was 10 percent lower than the list price even though the property had been on the market for less than one week. This was several years ago when the real estate market was recovering from the last recession and buyers still expected sellers to make large price concessions. The buyer saw no harm in asking for a discount off the seller's list price, even though the property was new on the market. The seller was so enraged by what he perceived to be an insultingly low offer that he threw the buyer's agent out of his house and refused to respond to the buyer's offer.

This is an extreme case, but it's not uncommon for a seller who's insulted by a buyer's offer to counteroffer back with a very high price. If you think that a property is over-priced for the market, you might have a better chance negotiating a price discount after the property has been on the market for awhile.

FIRST-TIME TIP: Before you make an offer, ask your agent how much list prices on similar homes are being discounted when they're sold. Although any given home sale may deviate from the norm, this information can provide a gauge. For instance, if similar homes have sold for within 5 percent of the list price, and you think the home you're considering is well-priced, you might offer 6 to 7 percent below the list price which leaves a little room for negotiation.

Another variable to take into account is how long the listing has been on the market. If the property is new on the market, and there is a lot of interest from other buyers, you should be more aggressive with your initial offer price than you'd be if the property had been on the market for months with no interest.

A big problem facing today's buyers who are attempting to buy in a strong seller's market is how much over, not under, the list price to offer when there are multiple offers. There's no magic formula that will guarantee results every time. Your best bet is to base your offer on the same sort of market data you would use to arrive at a price in any market. Find out how much over the asking price similar homes have been selling for and make your offer accordingly.

When you're up against formidable competition, be prepared to make your first offer your best offer. You may only have one chance to attract the seller's attention.

THE CLOSING: It's wise to set limits so that you don't pay more than you can afford or more than the property is worth. But, don't lose out for a few thousand dollars.

Dian Hymer is author of "Starting Out, The Complete Home Buyer's Guide," Chronicle Books, Revised 1998.

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How can I reduce the stress of buying and selling a home?

By Dian Hymer

Buying or selling a home ranks high on the list of stress-provoking situations. It's disrupting, uncertain, unsettling and time-consuming, not to mention expensive. Sellers whose homes sell quickly worry that they sold too low. Sellers whose homes take months to sell wonder if they'll ever sell. Buyers agonize over paying too much. And both buyers and sellers complain that the process takes too long.

People move for a variety of reasons, sometimes by choice but often not. Frequently a move is forced on a family because of a death, a divorce, a job loss or an unanticipated transfer. So the reason for the move can be stress-provoking. And since most people dislike change, the very act of moving is bound to be stressful. What can you do to ease the pain?

Pick your real estate agent carefully. A good agent will go out of his or her way to make the move easier for you. Make sure that your agent will communicate with you regularly, and will be available to consult with you on short notice. The unpredictability of the real estate experience can be unnerving. Your agent should review the buying and selling process with you so that you know what to expect.

Buyers moving to a new area should find an agent who has experience working with buyers who are relocating. Your employer can probably provide you with a good recommendation or ask the agent who is helping you sell your home to refer an agent to you. Be sure to ask for a relocation package. It should include information about your new community as well as sample listings of homes for sale.

The Internet is a great source of information. For example, Realtor.com (www.realtor.com) lists 1.3 million properties across the country that are for sale. It includes maps, photos and community facts. So it's possible to preview listings long distance. Buyers who are buying locally can also cut down the time they spend looking at new listings by viewing homes on the Internet.

Getting your home ready to sell can be a huge task. If you're short on time, consider hiring help if you don't have family or friends who can help you out.

Showing your home to prospective buyers is an invasion of your privacy. Furthermore, it's best to leave your house when it's shown. It may make life easier if you plan to eat out when the home is new on the market and is getting a lot of showing activity.

FIRST-TIME TIP: If you're buying or selling a home with a partner, divide the workload so that you don't duplicate efforts. Perhaps one of you can preview new listings and the other can arrange the financing. Make good use of modern technology to lighten your load. Use email, voice mail and facsimile rather than lengthy telephone communications to exchange messages.

Moving always seems to come at an inconvenient time. But even though you feel pressed for time, don't eliminate stress-reducing activities like jogging or cycling from your schedule. Staying involved in your favorite hobbies and sports will add some semblance of order to your chaotic life, as well as provide needed relaxation.

Plan time outs for you and your family. Take day trips or go away for a weekend. If you've been looking for a home for months with no luck, take a break and enjoy yourself.

THE CLOSING: There will undoubtedly be times when you feel stressed out or depressed. Understand that these feelings are normal and they will pass.

Dian Hymer is author of "Starting Out, The Complete Home Buyer's Guide," Chronicle Books, Revised 1998.

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What is a swing loan?

By Dian Hymer

Trading up to a larger home or down to a smaller one is more complicated than buying a first home. Two home sales need to take place to accomplish your move: the sale of your current home and the purchase of a new one. Ideally you'd like to coordinate the two transactions so that you don't have to move twice. One way to accomplish this is with a swing loan.

A swing loan (also called interim or bridge financing) enables you to borrow a portion of the equity in your current home to use for a down payment on a new home. For example, let's say that you're buying a home for \$500,000. You have \$50,000 in savings that you can use for a down payment, but you want to put 20 percent down so you're shy \$50,000. The home you're selling is worth \$300,000 and you have a mortgage on that property for \$150,000.

Swing loan programs vary from one lender to the next. Some allow you to borrow up to 80 percent of the available equity, or about \$120,000 (80 percent of \$150,000) in this example. Others will lend up to 80 percent of the value of the property, less any mortgages secured against it--\$90,000 in this example (80 percent of \$300,000 is \$240,000, less \$150,000 equals \$90,000). In either case, the swing loan generates more than enough cash to close on the new home.

FIRST-TIME TIP: Swing loans can be risky depending on the current real estate market. Swing loans are usually short-term loans that are due in 6 months or when your home sells, whichever occurs sooner. In a fast-paced real estate market, it's usually safe to assume that your home will sell within several months if it's priced right. In this case, you won't have to pay the carrying costs on two homes for long. But, if the market is stagnant, it could take longer than 6 months to sell. One seller had to resell the home he had just bought because his old home didn't sell in time to pay off the swing loan. The new home sold in time to pay off the loan, but the seller lost thousands of dollars in the process and didn't have a new home to show for his efforts.

The interest rate on a swing loan will be about 2 percent higher than you'll pay on a 30-year fixed-rate mortgage. Payments on swing loans usually accrue and are due when the loan is paid off. This keeps your monthly housing payments down for the period of time that you own two homes.

Some swing loan programs require that you have your old home under contract to sell before the loan funds are issued to you. And some lenders, like Cendant Mortgage, require that the mortgage on your new home is also with Cendant before they'll agree to fund a swing loan.

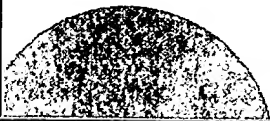
To qualify for a swing loan, you'll need to have enough income to carry the mortgages on both homes. If you're stretching to qualify and can provide the lender with a copy of a lease agreement on your old home, the rental income can be used to help you qualify. Otherwise you'll need to sell your current home first to free up the equity you need to buy the new home. Another option is to find a seller who will accept an offer that's contingent on the sale of your home.

THE CLOSING: Swing loan programs are available through direct lenders and mortgage brokers. Be sure to get pre-approved.

Dian Hymer is author of *"Starting Out, The Complete Home Buyer's Guide," Chronicle Books, Revised 1998.*

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What is the effect of rising interest rates?

By: Dian Hymer

During the first week of June this year, interest rates on home mortgages were higher than they have been in nearly two years. According to Freddie Mac, an organization that buys mortgages from banks and other loan originators, the average rate on a 30-year fixed mortgage was 7.41 percent, the highest since September, 1997. Some in the mortgage industry think that rates will plateau at this level. Others believe that rates are going to as much as 9 percent. Only time will tell. But under either scenario, it, like the period during which we have enjoyed the lowest mortgage rates in 30 years, may be drawing to a close.

One of the first effects of higher interest rates is that the refinance market slows down. Homeowners who want to refinance their current mortgage into another one with a lower rate will table their refinance plans when rates rise. They'll be back in the market when interest rates drop again.

Home buyers are more adversely affected by rising rates. Higher interest rates make it harder for buyers to qualify for financing. When rates rise too high, buyers have to scale back their expectations and buy more affordable, less expensive properties. Marginally qualified buyers are most profoundly affected by rate increases. If you barely qualify for a \$200,000 mortgage at 6.75 percent, you probably won't qualify for the same size mortgage with interest rates 1/2 to 3/4 percent higher.

One alternative way to keep housing affordable when interest rates rise is to switch from fixed to adjustable-rate financing. During the first week in June this year, the average initial interest on a one-year adjustable-rate mortgage (one where the interest rate is adjusted annually) was 5.85 percent.

Some buyers are nervous about taking an adjustable-rate mortgage (ARM) when rates are rising. Even though most ARMs limit how high the interest rate can go during the life of the loan, home buyers often feel more comfortable with stable monthly housing payments. For such buyers, a hybrid mortgage, also called a fixed-period ARM, is another way to keep financing more affordable when rates rise.

A hybrid mortgage is one that has a fixed interest rate for a period of time, usually for 3, 5, 7 or 10 years. After the fixed interest rate period, the interest fluctuates for the remaining term of the loan. The initial fixed interest rate on a 10-year fixed ARM is approximately 1/2 percent lower than it is on a 30-year fixed-rate loan. With a 10-year fixed ARM, it's likely that the homeowner will never experience rate fluctuations because statistics show that most homeowners either sell their home and pay off the mortgage or refinance within 5 to 7 years.

FIRST-TIME TIP: While you might expect higher interest rates to slow the real estate market down, the opposite can also occur. In April of this year, when rates started to inch up, a home buying fever hit Americans who bought at a pace that was the second highest level on record. With increased competition to buy before rates go higher it makes good sense to get pre-approved for a mortgage. A pre-approved buyer can close quickly. This may make a big difference to a seller.

THE CLOSING: When interest rates are rising, buyers are wise to consider locking in an interest rate. When you lock in a rate, the lender commits to making you the loan at a certain interest rate, even if rates rise further, as long as you close within a specified time frame (usually 15 to 90 days).

Dian Hymer is author of "Starting Out, The Complete Home Buyer's Guide," Chronicle Books, Revised 1998.

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How often should a home be inspected?

By: Dian Hymer

Most home buyers wouldn't dream of buying a home without first having it thoroughly inspected by qualified professionals. Many sellers today are ordering pre-sale inspection reports when they list their home for sale. But, don't be lulled into thinking that the only time you should have a home inspected is when you buy it or sell it. Routine inspections will save you money in the long run.

Although most buyers are diligent about inspecting a property's condition before they purchase, they often relegate home inspection issues to a low priority soon after closing the sale. This can lead to big trouble if relatively small problems are left to develop into major structural defects. Keeping a property well maintained is necessary if your aim is to protect and enhance your investment.

Soon after you close on your new home, make a list of all the defects flagged in your home purchase inspection reports that still need to be corrected. If the seller corrected some defects as a part of your purchase be sure to keep a record of this information. It will come in handy in the future when you sell the property. Then prioritize the list of remaining defects so that repairs that need immediate correction are done quickly. Set a schedule for completing the remaining work.

FIRST-TIME TIP: An ounce of prevention is worth a pound of cure. For example, one homeowner neglected to relocate downspouts adjacent to the chimney that carried rain water from the roof. Rather than carry the water away from the building, the downspouts deposited water next to the foundation. During the rainy season, the soil around the base of the chimney became saturated. After awhile, the foundation settled significantly in this area. Consequently, the living room floor sloped noticeably toward the fireplace. When the seller listed the property for sale, he had difficulty selling. Most buyers were concerned about the settlement. The seller had to discount his price over \$10,000 to cover the cost of re-leveling the foundation and the living room floor. The problem could have been avoided entirely with two down drain extenders which would have cost less than \$25.

At least once a year, walk around your property with a note pad in hand and make a list of the repairs that need to be completed before the next rainy season. If you lack experience, hire a contractor or home inspector to walk around your home and create a check list for you.

Rain, wind and sun cause damage to the exterior surfaces of your home. When paint blisters and peels, water can penetrate the exterior walls and cause interior damage. Missing shakes and shingles on your roof can also lead to water damage, so make sure that your roof is carefully inspected by a qualified professional at least once a year.

Each home will require a slightly different home maintenance regime. For example, if you live under overhanging trees, your roof gutters will need periodic cleaning. The trees will also need pruning to keep them in good shape and to lower fire and wind risks. It's a good idea to note these routine maintenance tasks on your calendar.

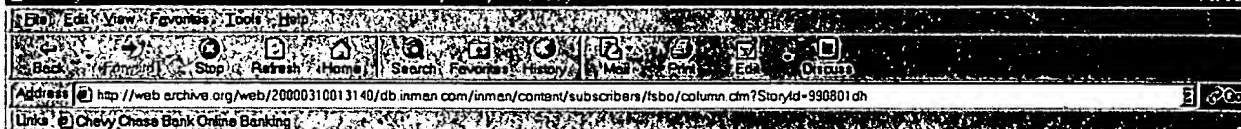
Have your home inspected for wood pests every few years so that you're aware of problems before they become major. If all of this seems like a headache, keep in mind that buyers pay a premium price for homes that are in good condition.

THE CLOSING: Also, it's easier to get your home ready for sale if you've kept up on routine maintenance.

Dian Hymer is author of "Starting Out, The Complete Home Buyer's Guide," Chronicle Books, Revised 1998.

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What is a loan-to-value ratio?

By: Dian Hymer

One of the factors lenders consider before they approve a mortgage is the loan-to-value ratio (LTV). The LTV is the loan amount expressed as a percent of either the purchase price or the appraised value of the property. So, if you make a 20 percent cash down payment on a property you're buying, the LTV is 80 percent. Or, if you're buying a property for \$250,000 and the mortgage amount is \$200,000, the LTV is 80 percent (the \$200,000 loan amount divided by the \$250,000 purchase price).

A mortgage with a high LTV is one where the mortgage amount is high relative to the borrower's cash down payment or to the equity in the property. For example, if the LTV is 95 percent, the mortgage amount is equal to 95 percent of the purchase price and the buyer's cash down payment is equal to only 5 percent of the price. From a lender's perspective, a high LTV mortgage is more risky than one where the LTV is low. When borrowers make a large cash down payment, or have a large equity in a property, they are less likely to default on the mortgage. Borrowers with less equity in a property have less to lose which puts lenders more at risk.

Lenders often require borrowers of high LTV loans to pay mortgage insurance to protect the lender from a buyer default. This increases the cost of the mortgage. High LTV loans can also carry a higher interest rate and they are often more difficult to qualify for. Some lenders require borrowers to have a larger monthly income to qualify for a 95 percent LTV mortgage than is required of borrowers with a 20 percent cash down payment, even though the loan amount is the same.

Sellers also have reason to be concerned about the buyer's LTV. If the buyer's LTV is high and the appraised value of the home comes in lower than the purchase price, the transaction is put in jeopardy. Part of the mortgage approval process involves an appraiser's report of the current market value of the property. If the appraised value comes in lower than the purchase price, the lender will base the LTV on the lower of the two amounts.

Let's say you're putting 5 percent down on a \$250,000 property. You need a mortgage for \$237,500. The appraisal comes in at \$245,000 and the lender is only willing to lend 95 percent of the appraised value, or \$232,750--\$4,750 less than you need to close. You may have to withdraw from the transaction unless you have an additional \$4,750 cash to apply towards the purchase.

FIRST-TIME TIP: Lenders of high LTV mortgages often require a second, review appraisal before they'll approve the loan. Sometimes this results in a lowering of the appraised value. If you find yourself in a situation where the appraisal comes in below what you need, you may want to move the loan to another lender who will be more lenient on the appraisal. One of the benefits of working with a mortgage broker is that he or she can move the loan from one lender to another quickly.

High LTV buyers are at a disadvantage when they are competing with other buyers. If given the choice, most sellers would prefer to accept an offer from a buyer with a large cash down payment because there's less risk of the deal falling apart.

THE CLOSING: To be more competitive, you may need to look at homes in a lower price range or accumulate more cash, or both.

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How do I prepare to buy a home?

By: Dian Hymer

Home buyers are often plagued with anxiety. Home buying is something most people do infrequently and the rules of the game are constantly changing. The process involves making a huge investment—the biggest one most people make in their lifetimes. Some buyers fear they'll make a huge mistake. Others worry that they won't find the right house for their money.

One way to cut down on the uncertainty is to go about home buying just as you would any other important business endeavor—in an organized and systematic fashion. The first step is to make sure that buying a home is the right thing for you to do at this time in your life. The answer to this will vary from one buyer to the next, and you may want to consult with a financial advisor before making this important decision.

There are plenty of good reasons to buy a new home: you need more space, you're ready to put down roots, you need to live closer to work or to your children's school. But, buying a new home won't remedy a bad marriage. And if you don't have job security, or if you think you might be transferred soon, you should probably postpone buying until later.

Once you decide you're definitely in the home buying market the next steps are to line up the financing, decide what you want and need in a home, and find an agent to represent you.

It's wise to get pre-approved for a mortgage. This involves making formal application with a lender. The lender will check your credit and verify your employment and down payment funds. Start this process before you begin looking for homes to buy. This way you won't waste time looking at properties that are out of your price range. Once you're pre-approved, you'll know exactly how much you can afford to pay. Pre-approval also helps you in negotiations with sellers because it removes any doubts they might have about your financial capabilities.

FIRST-TIME TIP: Make sure that the cash you'll need for a down payment and closing costs is liquid. One buyer discovered he couldn't afford to buy the home he had spent months searching for because his down payment money was in the stock market and the value of his stock had dropped. Also, if you're counting on financial assistance from relatives, make sure that this money is readily available. Relatives who are giving you part of your down payment money will need to provide the lender with a gift letter that states that the money does not have to be repaid. Don't wait until the last minute to arrange for this important document.

To determine what kind of a home you're looking for, make a list of all the characteristics you want and need. Also list those things you don't want. For instance, you may need three bedrooms, two bathrooms and either a formal dining room or a large kitchen/family room. You'd like to have a view and you definitely don't want a fixer-upper.

The best way to find an agent, if you don't already have someone you like who you've worked with in the past, is to ask a trusted friend for a recommendation. A good, reputable agent has your best interests at heart. A satisfied client is an agent's best source of future referral business. Be sure to work with an agent who is in the real estate business for the long-term.

THE CLOSING: Don't forget to give your agent a copy of your housing wants and needs list.

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Should you accept a backup offer?

By: Dian Hymer

One buyer suffered through sleepless nights after she accepted backup position on a property she wanted to buy. For days, every time the phone rang, she held her breath in anticipation wondering if this was the call to inform her that she got the house. She didn't get the house and a few months later she bought another one. Was the backup offer experience worth the anxiety?

A backup offer is an offer that's accepted subject to the collapse of another offer or offers. If the offers that are higher in seniority than the backup offer fall apart, the backup offer becomes primary without the property going back on the market. If you're in backup position, you're next in line to buy a property if the primary buyers fail to perform.

Sellers like backup offers because they tend to solidify the primary buyers' resolve to carry through with the purchase. If inspection issues come up, the primary buyers are less likely to renegotiate their contract with the sellers if there's another buyer waiting in the wings.

You may wonder why a buyer would consider being in backup position if it increases the chances of the primary deal going through. To be sure, accepting a backup offer is a gamble, and in most cases, a long shot. But in some frenzied real estate markets, with lots of multiple bidding contests for listings, backup position may be worth the risk. For example, if the price of the home was increased significantly because of competitive bidding, there might be an increased risk of a deal falling apart. Maybe the winning buyer will get cold feet. Sometimes buyers bid higher than they can afford to pay in the heat of the race and regret their decision the next day. If this were to happen and you were in first backup position, your contract would be elevated to primary position without you having to go through another multiple offer competition.

FIRST-TIME TIP: Buyers who accept backup position should make sure that the purchase contract includes a provision that allows them to withdraw from backup position. Without such a clause, you could wait in vain for the primary offer to collapse, while missing out on other homes that might suit your needs.

Sellers should carefully consider the merits of a backup offer before committing to it. If there are conditions in the backup offer that you can't live with, like a contingency for the sale of another property, you might be better off not to accept the offer as a backup at all. If you do accept it, you'll be obliged to proceed with that contract if your primary contract falls. Or you could counteroffer the backup offer to remove the contingent sale provision.

Buyers should be aware that sellers usually reserve the right to renegotiate the terms and conditions of the contract with the primary buyers, regardless of the backup offer. In this case, let's say the primary buyers discovered during their inspections of the property that the chimney was cracked, and they asked the sellers to repair it as a condition of closing. If the sellers agreed to the request, the primary contract remains primary.

THE CLOSING: When there are multiple offers, the sellers might choose to offer backup position to more than one buyer. In this case, the backup offers are ranked: backup offer number one, two, three, and so on. If the primary offer falls apart, backup offer number one becomes primary. If this deal falls apart, backup number two becomes primary, and so on.

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How many agents should I interview before choosing one?

By: Dian Hymer

Real estate agents are used to competing with one another for business. An agent is often one of several agents being considered by a prospective home buyer or seller. Sometimes, the contest is fierce. Recently an agent complained that she was one of eight being considered by a seller who wanted to make sure that he selected the right agent to list his home.

Is it necessary to interview numerous agents in order to find one that's right for you? Not necessarily. While most real estate experts suggest interviewing three agents before making a choice, you may not have to interview at all depending on your situation.

The recommendation to interview three agents comes from experts who assume that you don't already have an agent. Talking with more than one agent gives you a basis for comparison. But, if you bought or sold a home recently and had a good working relationship with your agent, you may want to consider using that agent again. Just make sure that the agent is experienced in the area where you want to buy or sell this time.

It's rarely a good idea to work with an agent from out of the area, even if you have complete trust in the agent. Having intimate knowledge of the local market place is one of the factors that makes an agent superb. No matter how good an agent might be, it's impossible to cover an enormous territory successfully. If you're buying or selling outside of your agent's domain, ask your agent to recommend a local agent who can better serve your needs.

FIRST-TIME TIP: There are many qualities that define a great real estate agent. One of the most important is trustworthiness. Experience also ranks high on the list. However, a relatively new agent can do an excellent job for you if he or she has adequate support from experienced colleagues. But, there's no substitute for high ethical standards.

If you don't have personal experience with an agent you're considering using, be sure to check references. Ask each agent to give you a list of recent clients he or she has worked with. Give the references a call and ask them if they would work with the agent again.

Be sure to ask what they liked and didn't like about working with the agent. For example, you might discover that an agent is a good negotiator and has excellent people skills--two desirable qualities in an agent--but that she's a bit disorganized and weak on follow-up. If you're a stickler for attention to detail, you might consider finding another agent who'll better understand your needs.

There are various reasons why sellers might want to talk to several agents before listing their home for sale. Some sellers want to find out what different agents have to say about how they would market their home. Other sellers know who they want to list with but they're interested in getting several expert opinions about the probable selling price of their home.

If you're just looking for price opinions, and don't want to go through the hassle of interviewing agents from several real estate offices, ask the agent you have selected to bring a few agents from his or her office through your home and take a survey of their opinions about a good list price.

THE CLOSING: Listen to your instincts when choosing an agent. Buying and selling homes can be stressful, so it's important to work with an agent with whom you have a good rapport.

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GLOSSARY OF REAL ESTATE TERMS

AMORTIZATION SCHEDULE: A table that lists how much of a mortgage payment will be each month based on the mortgage amount and the interest rate.

CREDIT REPORT: A report on a buyer's credit history required by the lender before approval.

DEBT SERVICE: The total amount of the loan payment, including principal and interest.

EARNEST MONEY: The deposit used to secure a purchase agreement.

ESCROW: Deposit of money and documents to a third party until the closing.

FAIR MARKET VALUE: The sale price of a property on the open market given a reasonable time to sell.

FIXED RATE LOAN: A loan that has an unchanging interest rate.

GOOD FAITH ESTIMATE: A required statement from the lender that shows all of the expected closing costs.

GROSS INCOME: All money coming into a household on a regular basis.

INTEREST: Money paid to a lender as compensation for money that is borrowed.

LOAN FEE: Also known as points, discount points or origination fee, this is a one time charge by a lender as compensation for their services. 1 point equals 1% of the mortgage amount.

MORTGAGE: The legal instrument by which property is offered as security.

PITI: Principal, interest, taxes, and insurance. This is your monthly house payment.

PMI: Private mortgage insurance, required by many lenders when a borrower's down payment is less than 20% of the purchase price.

PREQUALIFYING: The lender's process of finding if a borrower is creditworthy and capable of making payments on a loan.

PRINCIPAL: The amount of money borrowed.

PROPERTY TAX AND INSURANCE ESCROW: Money collected monthly by the lender and held to pay taxes and insurance when due.

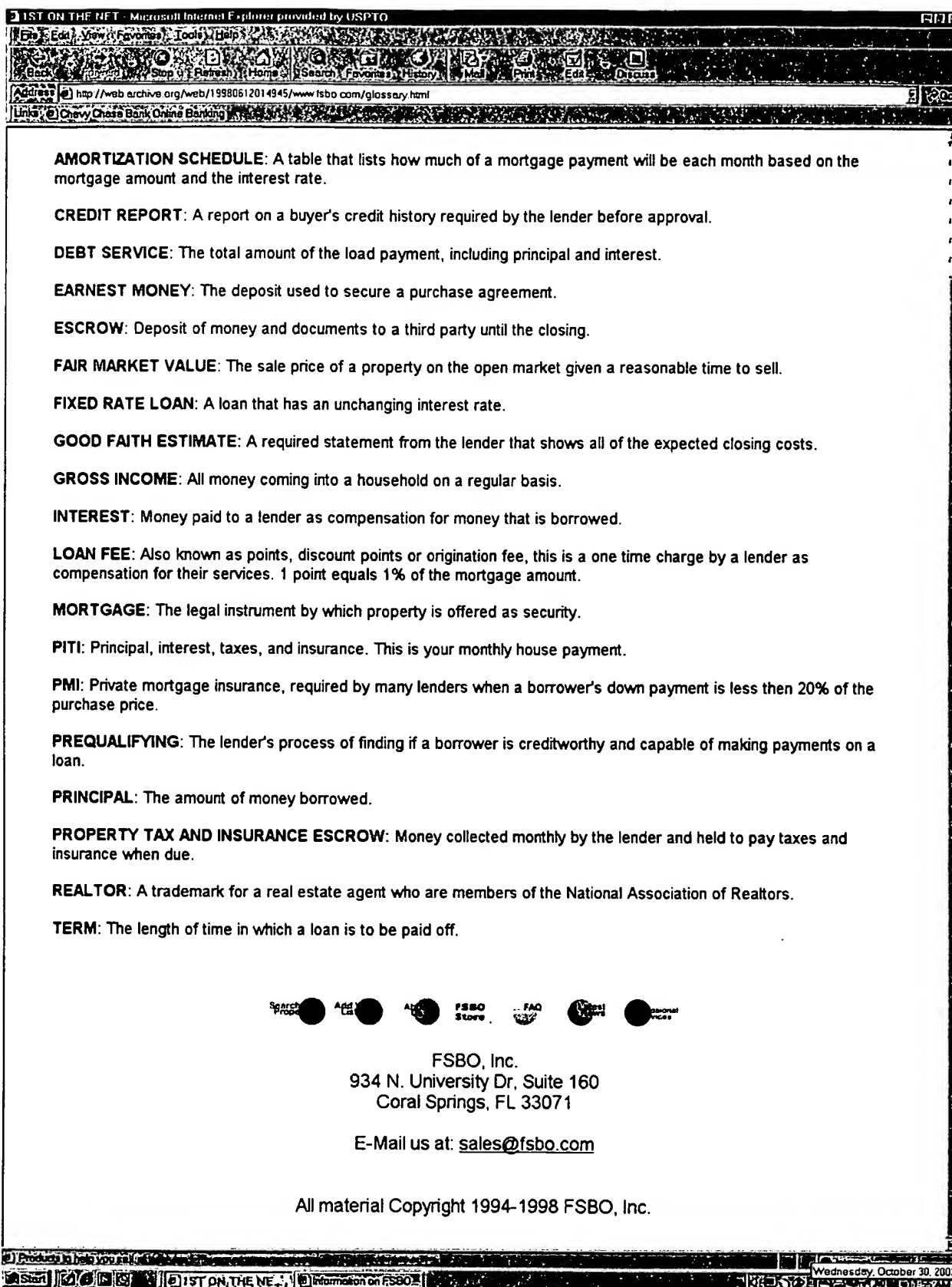
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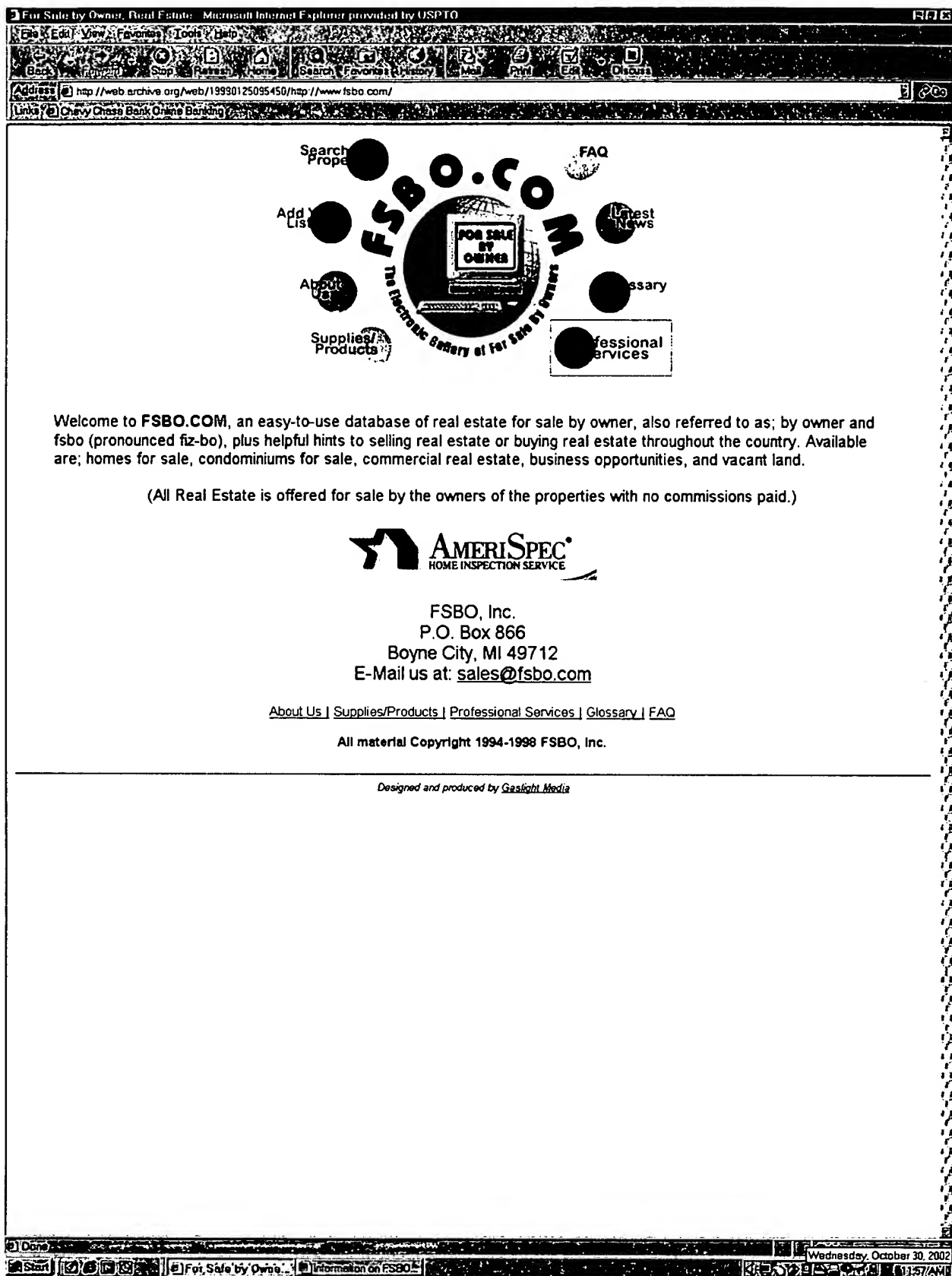
TERM: The length of time in which a loan is to be paid off.

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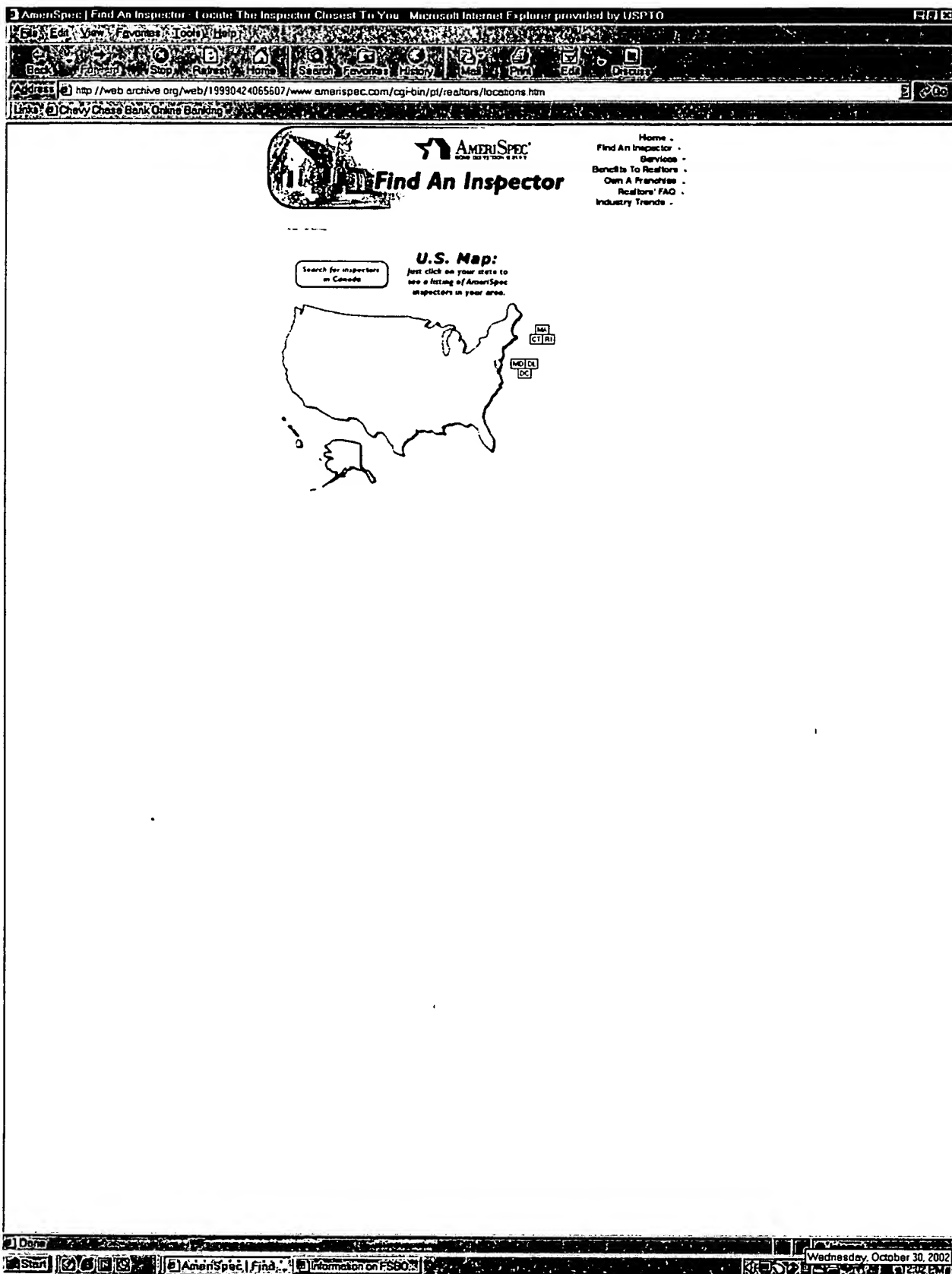
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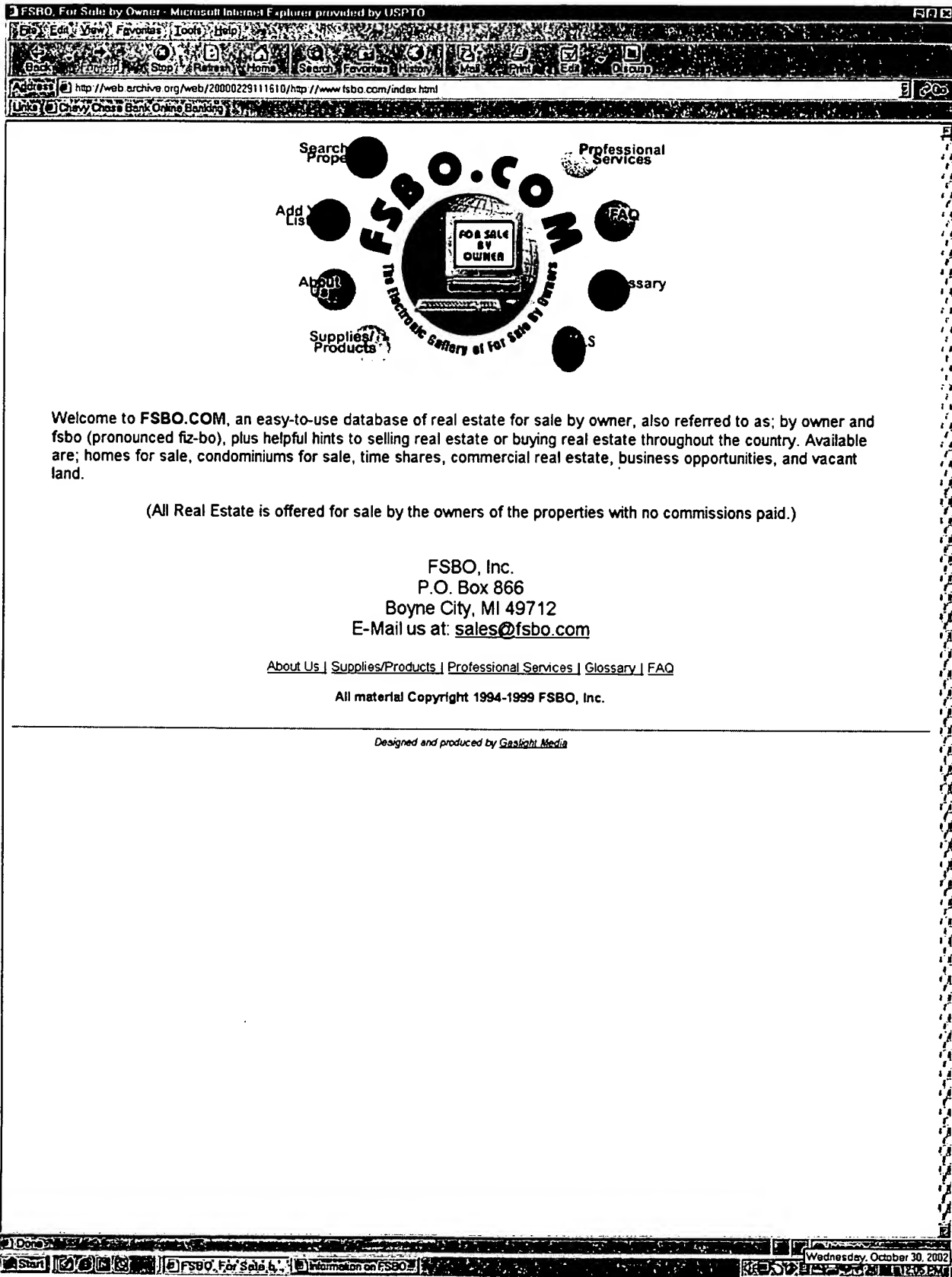
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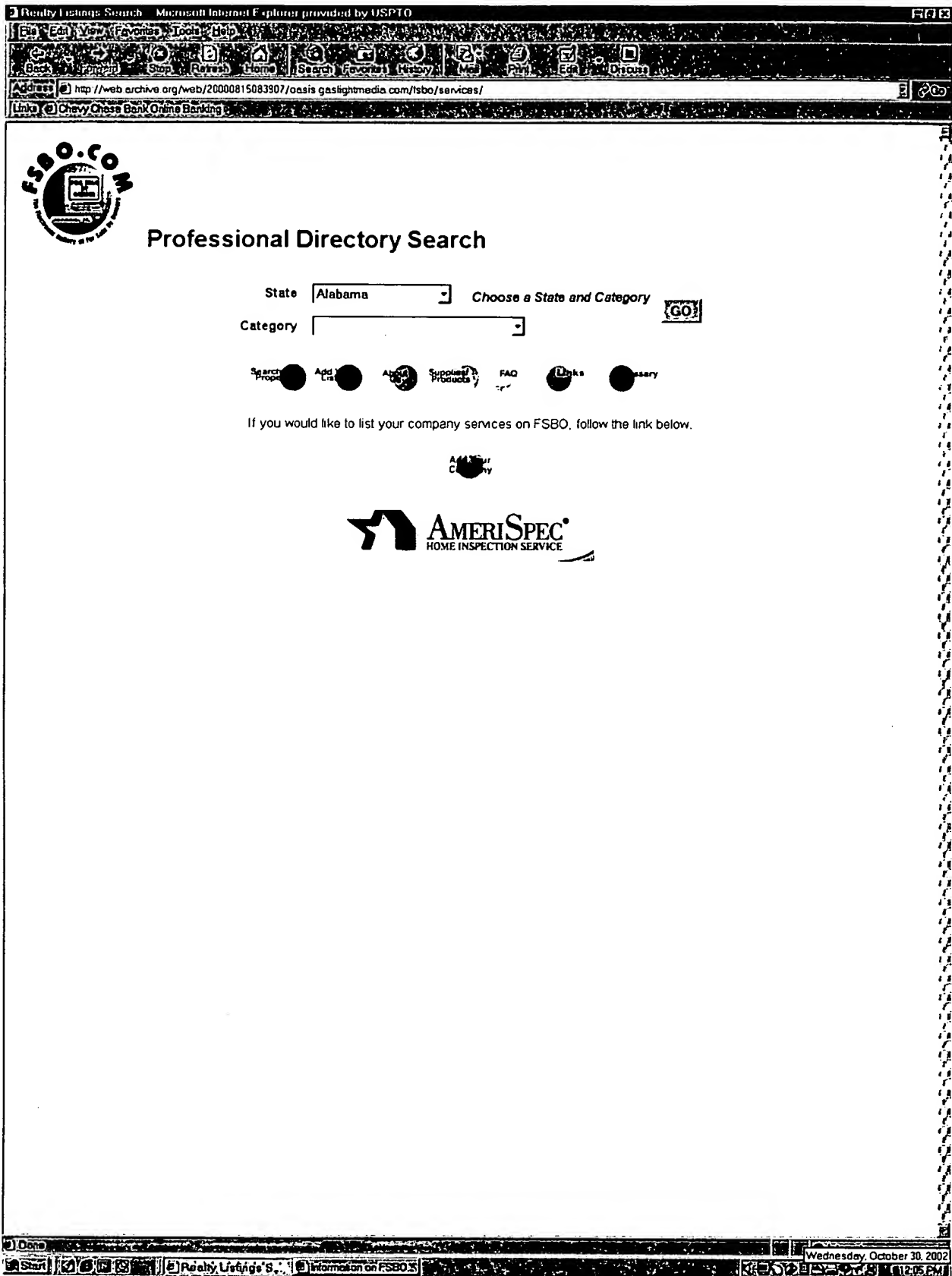
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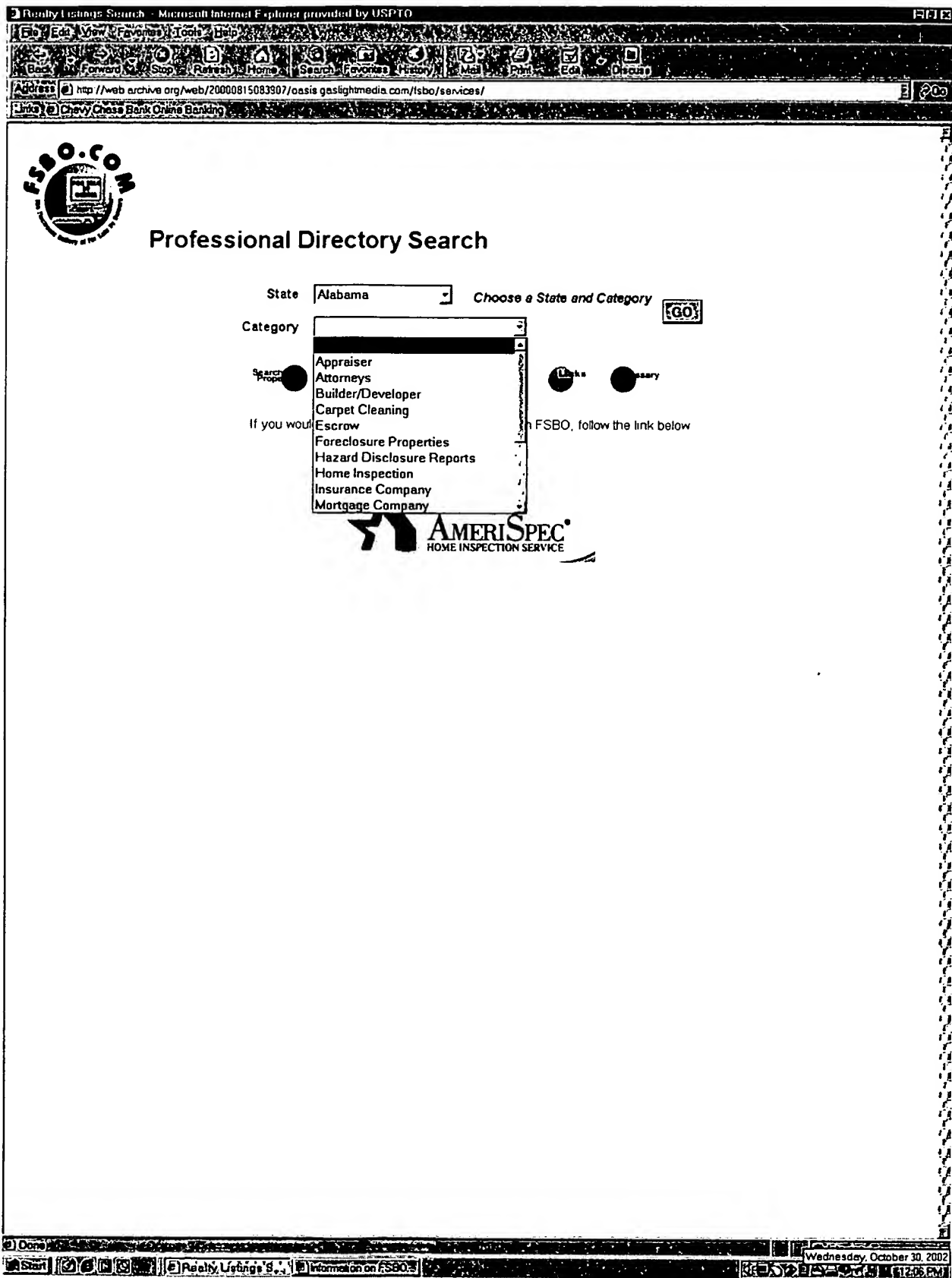
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